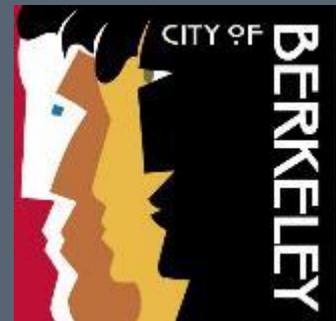


ASHBY AND NORTH BERKELEY BART

Planning for Equitable Transit-Oriented Development

City Council

June 2, 2022



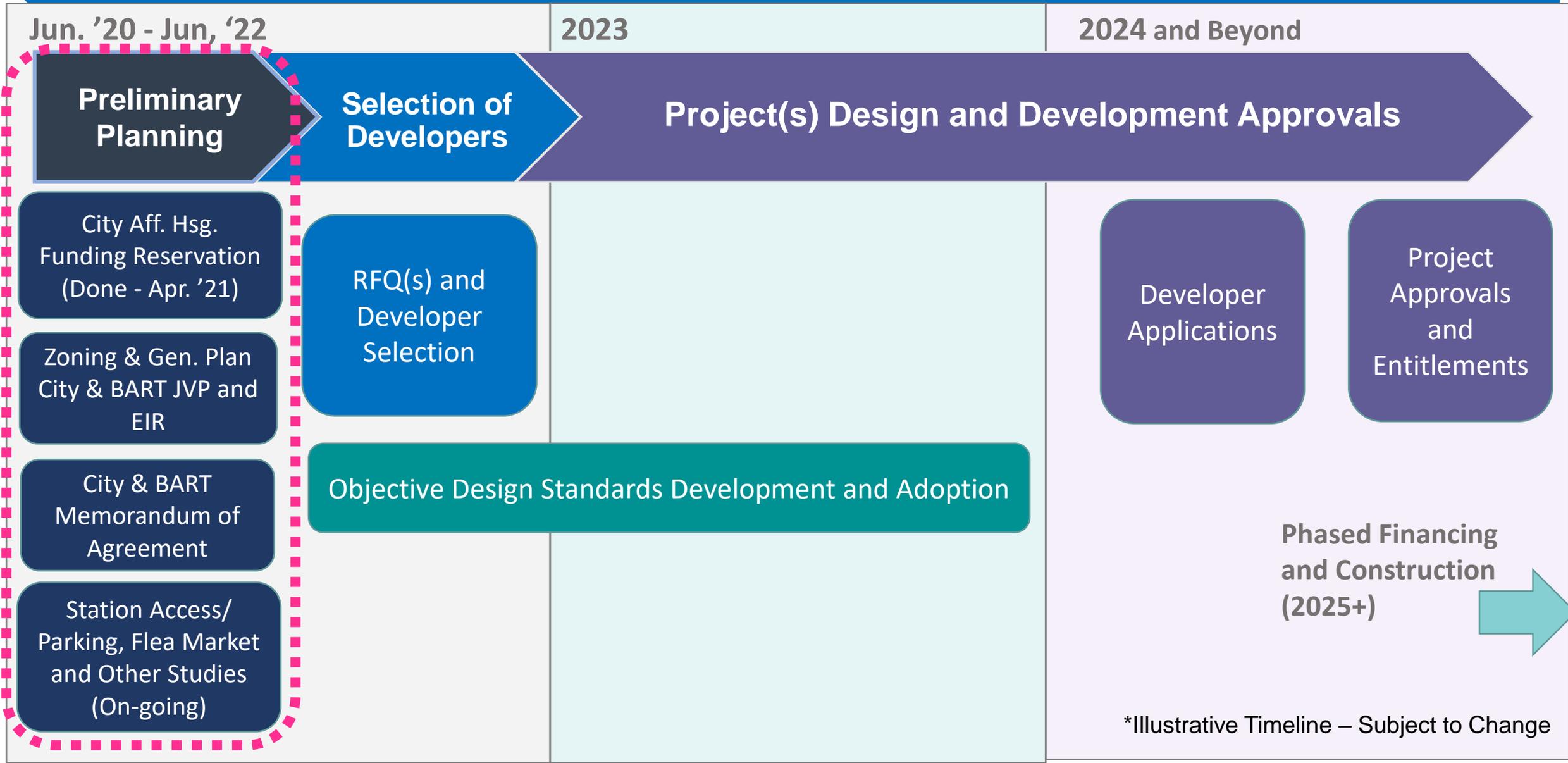
City Council Actions To Consider

1. Adopt resolution to certify the Final Environmental Impact Report (EIR) and adopt associated California Environmental Quality Act (CEQA) documents; and General Plan amendments
2. Adopt resolution to approve the City and BART Joint Vision and Priorities (JVP)
3. Adopt resolution to approve the City and BART Memorandum of Agreement (MOA)
4. Adopt ordinance to approve amendments to the Berkeley Municipal Code

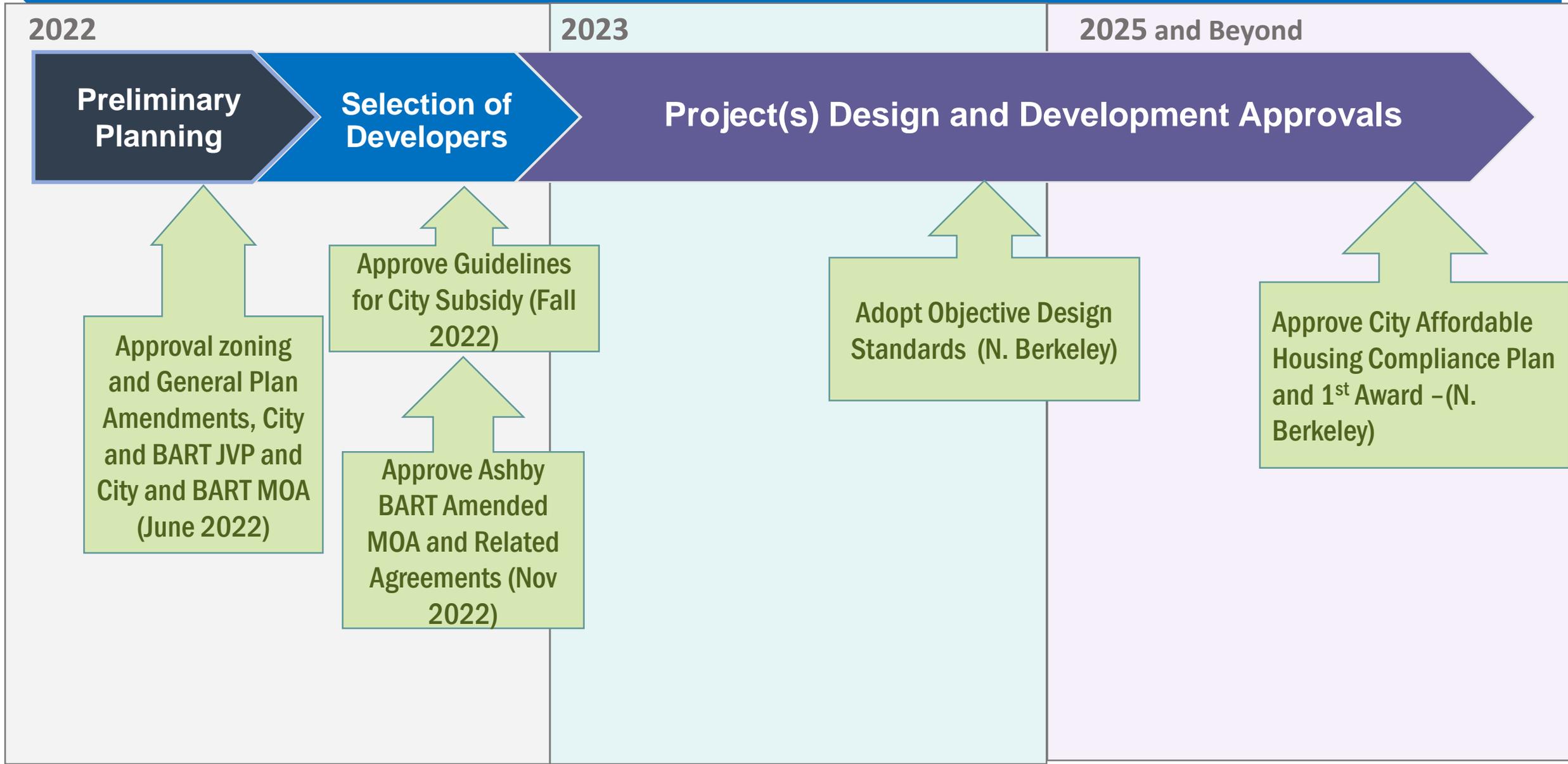
PRESENTATION OUTLINE

1. Recap 4/19 Council Worksession
2. Environmental Review Documents
3. City and BART Memorandum of Agreement
4. Potential Framework for City Affordable Housing Subsidy

Recap 4/19 Worksession: Process Overview



Planning Process: Future City Council Decision Points



Recap 4/19 Worksession: Key State Laws

Assembly Bill 2923 (AB 2923)

- Constrains specific zoning development standards
- Requires jurisdictions to adopt consistent zoning by July 1, 2022 or BART's TOD standards become the zoning standards for affected parcels
- Requires cities to provide streamlined, non-discretionary approvals for housing development projects that include a required levels of affordable housing (SB 35 "ministerial" approval process)

AB2923 Zoning Requirements for Ashby and North Berkeley	
Density	75 units per acre (or higher)
Height	7 stories (or taller)
FAR	4.2 (or greater)
Parking for residential development	Vehicles: No minimum, 0.5 spaces/unit maximum Bicycles: A minimum of one bicycle parking space/unit
Parking for office development	No minimum, 1.6 spaces per 1000 sq ft. maximum

Recap 4/19 Worksession: Key State Laws

State Density Bonus

AFFORDABLE UNIT PERCENTAGE**	VERY LOW INCOME DENSITY BONUS	LOW INCOME DENSITY BONUS	MODERATE INCOME DENSITY BONUS***	LAND DONATION DENSITY BONUS	SENIOR****	FOSTER YOUTH/ DISABLED VETS/ HOMELESS	COLLEGE STUDENTS
5%	20%	-	-	-	20%	-	-
6%	22.5%	-	-	-	20%	-	-
7%	25%	-	-	-	20%	-	-
8%	27.5%	-	-	-	20%	-	-
9%	30%	-	-	-	20%	-	-
10%	32.5%	20%	5%	15%	20%	20%	-
11%	35%	21.5%	6%	16%	20%	20%	-
12%	38.75%	23%	7%	17%	20%	20%	-
13%	42.5%	24.5%	8%	18%	20%	20%	-
14%	46.25%	26%	9%	19%	20%	20%	-
15%	50%	27.5%	10%	20%	20%	20%	-
16%	50%	29%	11%	21%	20%	20%	-
17%	50%	30.5%	12%	22%	20%	20%	-
18%	50%	32%	13%	23%	20%	20%	-
19%	50%	33.5%	14%	24%	20%	20%	-
20%	50%	35%	15%	25%	20%	20%	35%

Projects that provide 15% of units at the Very Low Income (VLI) level receive a 50% density bonus



Recap 4/19 Worksession: Zoning and GP Amendments

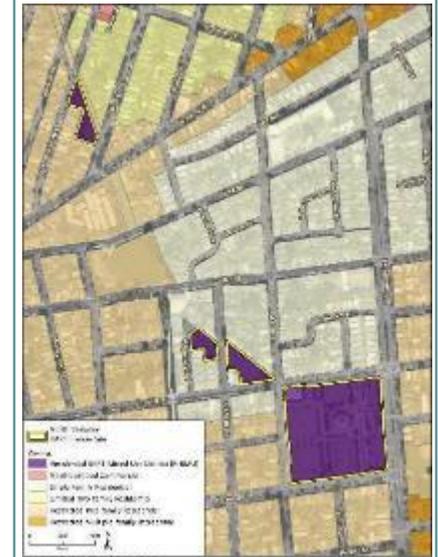
Residential – BART Mixed Use District (R- BMU)

Ashby and North Berkeley General Plan Land Use Classification

ASHBY

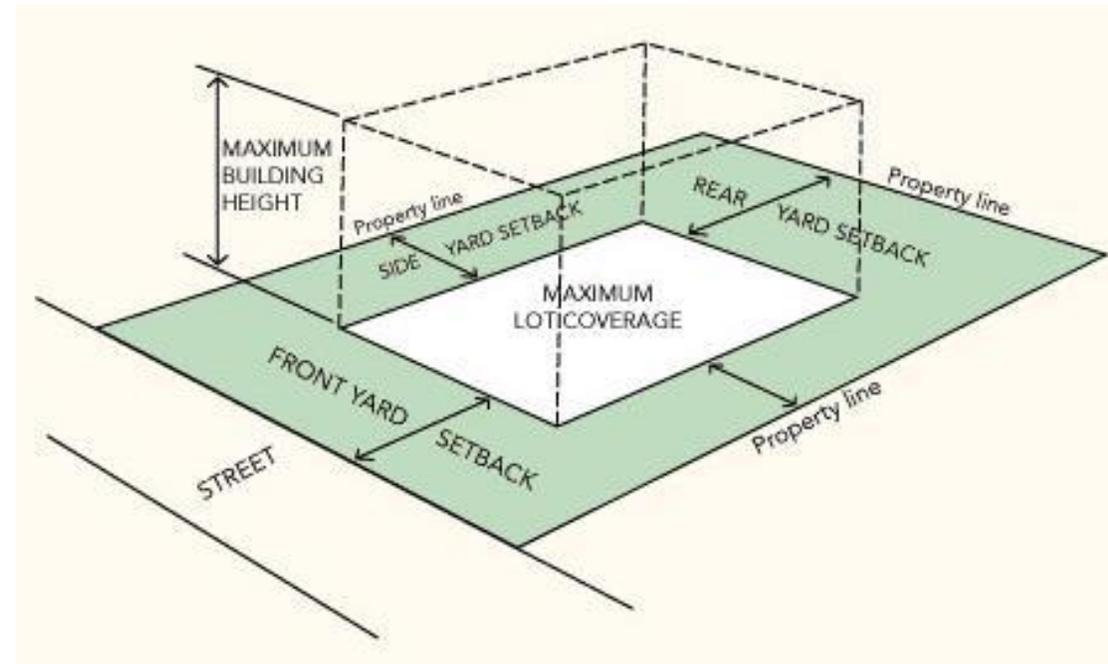


NORTH BERKELEY



Recap 4/19 Worksession: Zoning and GP Amendments

- **Proposed R-BMU zoning includes:**
 - New definitions
 - Basic Development Standards (height, lot sizes, open space requirements, setbacks)
 - Allowed Land Uses
 - Street Frontages (stepbacks, ground floor frontages)
 - Building Entrances
 - Pedestrian Access
 - Parking Design and Access
 - Development Approval Process (“Master Development Permit”)



Example of typical “zoning envelope”

Recap 4/19 Worksession: Proposed Zoning Standards

	Staff Recommendation	4/6 PC Recommendation (Per EIR "Alternative 3: Increased Height")
Lot Area, Minimum	No minimum	Same
Floor Area Ratio (FAR), Maximum	4.2	5.5
Main Building Height, Maximum	80 feet and 7 stories	12 stories (130 feet)
Residential Density, Minimum	75 dwelling units per acre	Same
Residential Parking	None required, Maximum of 0.5 space per dwelling unit	Same
Non-Residential Parking	No minimum, 1.5 spaces per 1,000 sf maximum	Same
Bicycle Parking	Minimum of 1 space per unit, 50% of which shall be covered and secure and 1 space per 1,000 sf of commercial use	Same

Recap 4/19 Worksession: City & BART JVP

City & BART Joint Vision and Priorities (JVP)

- The City and BART's shared, high-level expectations for future development of both the Ashby and North Berkeley BART properties
- Guides the process for the development of both Ashby and North Berkeley stations from developer selection through project construction



Recap 4/19 Worksession: City & BART JVP

City & BART Joint Vision and Priorities (JVP)

- Synthesizes City-adopted and BART-adopted policies and plans
- Grounded in technical analyses of site capacity and economic feasibility
- Informed by the extensive community process over the last two years
- Includes **minimum requirements** and **aspirational goals**
- Balances **priorities** and **requirements** in order to allow for flexibility for innovative solutions



EIR AND RELATED CEQA DOCUMENTS

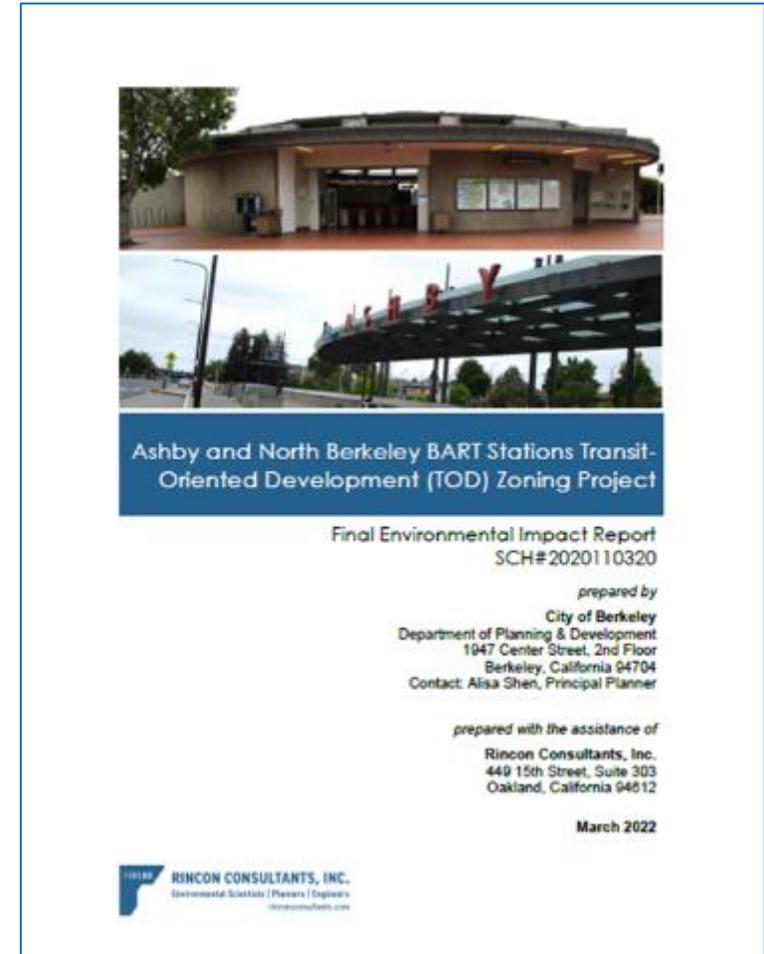
Final EIR

- Draft EIR (DEIR)
- Response to Comments (RTC) Document
- Mitigation and Monitoring and Reporting Program (MMRP)

EIR: Project Description

The “Proposed Project” analyzed in the EIR consists of:

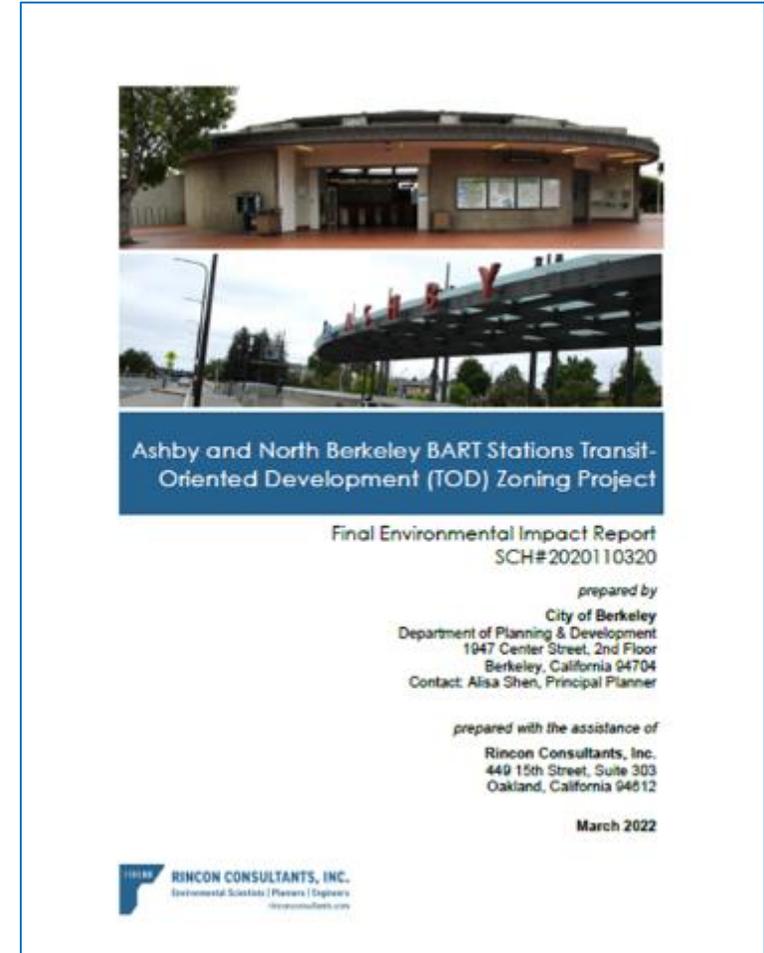
- Zoning and associated General Plan amendments
- City and BART Joint Vision and Priorities for Transit Oriented Development at the Ashby and North Berkeley BART Station Areas
- MOA and future agreements between the City and BART



EIR: Projected Buildout

For environmental analysis, the DEIR estimates a reasonably foreseeable maximum buildout under the proposed zoning at both stations based on the following assumptions:

- 2,400 units
- 125,000 sf of non-residential space
- 7 stories height maximum, 4.2 floor area ratio maximum
- 725 parking spaces for development
- No BART rider parking (on-site)
- *Note: There are no specific project proposals at this time*



EIR: Significant and Unavoidable Impacts

All potential impacts can be Less-Than-Significant (LTS) or can be mitigated to LTS levels except:

Noise: Temporary Construction Noise

Even though mitigation to restrict the hours of construction activity and minimize noise from equipment would reduce construction noise to the extent feasible, construction noise **could** still exceed the City's standards at sensitive receptors.

Cumulative Development in Project Area - Cultural Resources

It is not possible to predict what development could occur in the future on property within or in close proximity to any of the three known CEQA historic districts adjacent to the Ashby BART Station (which is based on decisions of individual property owners).



EIR: CEQA Alternatives

- CEQA requires a range of conceptual alternatives and a comparison of environmental impacts
- AB 2923 constrains the range of viable alternatives
- Environmental impacts similar across all alternatives
- None of the alternatives eliminated a significant and unavoidable impact

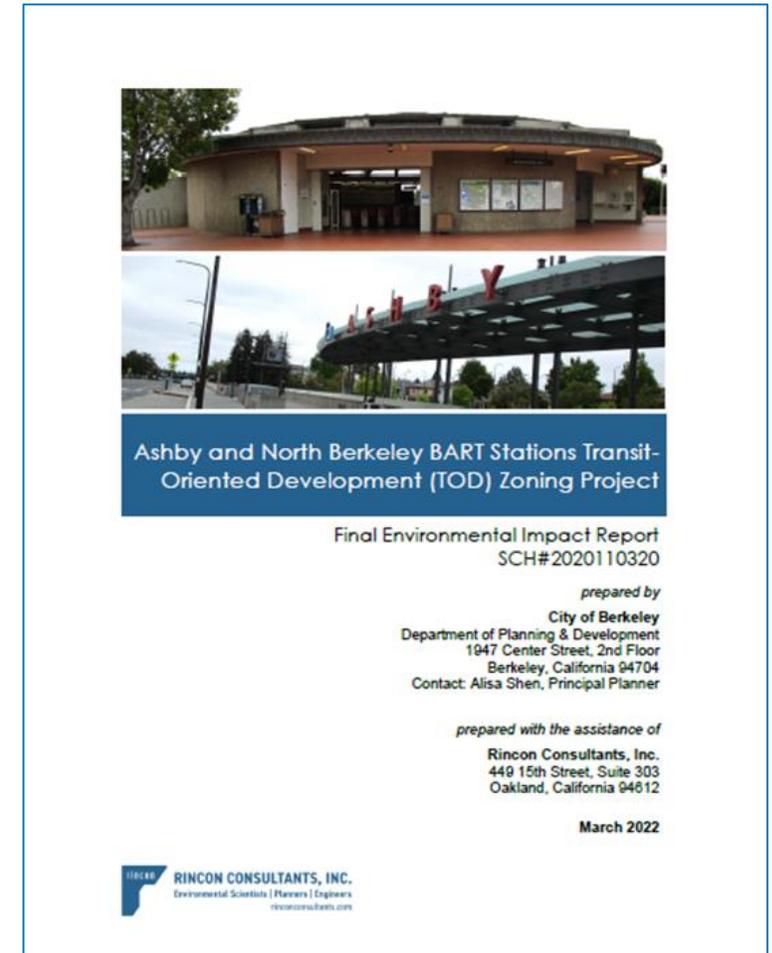
Alternative 1: No Project/Implement AB 2923 Zoning Standards

Alternative 2: BART Rider Parking Alternative

Alternative 3: Increased Height Alternative

EIR: Response to Comments Document

- Responses to all CEQA-related public comments on the DEIR received before the end of the comment period (Dec 1, 2021)
- Revisions/clarifications to the Draft EIR
- No new environmental impacts were found; no new mitigation measures were required.



EIR: Mitigation Monitoring & Reporting Program

The Mitigation Monitoring and Reporting Program (MMRP):

- Includes 12 specific mitigations in 7 categories; standard requirements for any development in Berkeley are also included.
- Identifies **what** the measure is to reduce impacts to less than significant levels, **who** is responsible for doing each mitigation, and **when** each mitigation must begin and **how** a mitigation will be considered complete.

EIR: Proposed Project and Alternative 3 Comparison

Assumptions for reasonably foreseeable maximum buildout (zoning envelope)

	Staff Recommendation	4/6 PC Recommendation (Per EIR "Alternative 3: Increased Height")
Height and FAR Maximum	80 feet and 7 stories and 4.2 FAR	12 stories (130 feet) and 5.5 FAR
Total # of Residential Units	2,400	3,600
Total Non-Residential (sf)	125,000 sf	125,000 sf
Parking for Development (# spaces)	350 (0.3 spaces/unit parking ratio)	550 (0.3 spaces/unit parking ratio)
BART Rider Parking*	0 spaces	0 spaces

*BART rider parking is under the purview of BART

CITY & BART MEMORANDUM OF AGREEMENT (MOA)

Purpose:

To clarify future collaboration between City and BART to advance TOD at North Berkeley and a timeline for future Ashby-related agreements

Major Topics

- Key Milestones & Timeline
- Phasing & Funding for Affordable Housing
- AB 2923 Streamlining & Objective Design Standards
- Developer Selection Process for N. Berkeley
- Minimum Requirements for TOD at N. Berkeley
- Ashby Timeline

City & BART MOA: Key Milestones and Timeline

Activity	Lead Party	Date
Developer(s) Selection – N. Berkeley	BART	July 1, 2022: Request for Qualifications (RFQ) Release June 30, 2023: BART Board Selection/Exclusive Negotiating Agreement (ENA) Authorization
ENA execution with Developer(s) – N. Berkeley	BART	No later than 9 months after developer selection

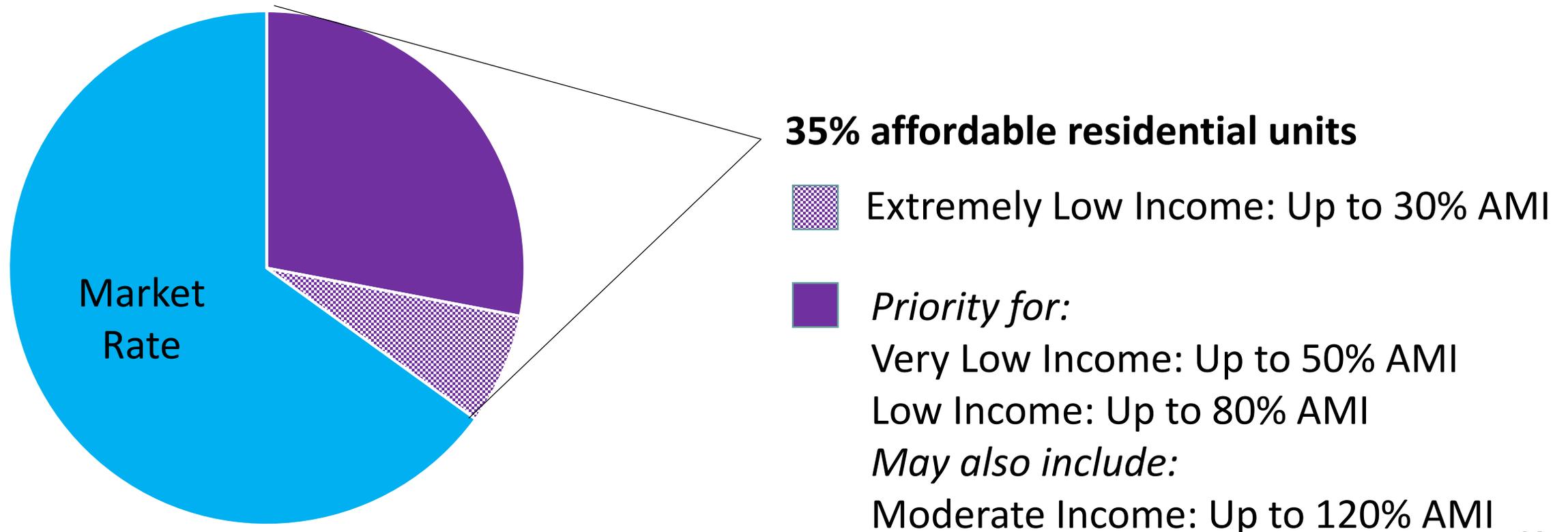
City & BART MOA: Key Milestones and Timeline

Activity	Lead Party	Date
Award of City predevelopment funds - Both Stations	City	No later than 60 days after developer selection
Adoption of Objective Design Standards – Both Stations	City	No later than 9 months after ENA signed
Finalize Affordable Housing Plan – Both Stations	City	June 30, 2023
Submit a complete project application to City for Master Development Permit for affordable housing entitlement – Both Stations	Developer	No sooner than 9 months and no later than 3 years after ENA executed
Complete project financing for affordable housing – Both Stations	Developer	December 31, 2031

City & BART MOA: Affordable Housing

Minimum Requirements

At least 35% of new housing must be affordable to households earning an average of up to 60% of Area Median Income (“AMI”).



City & BART MOA: Affordable Housing

Local Funding/Subsidy Sources

1. BART land discount: Higher levels of discount for more units at lower income levels.
2. \$53 million in City affordable housing funds, for both stations, subject to compliance with affordability requirements, project milestones and other requirements
3. Exploration of additional sources, such as a new bond measure, the City's work with Equitable Black Berkeley/SF Foundation



City & BART MOA: Affordable Housing

City Funding – North Berkeley Site

- **Predevelopment Funding (Up to \$2 million for the North Berkeley site)**
- Available to non-profit affordable housing developer
- Phase 1 funding – up to \$500,000
- Phase 2 funding – up to \$1.5 million to assist with site planning, architecture and infrastructure design and related activities

- **Development Funding (up to 50% of City reserved funding, minimum of \$20M)**
- Funding award based on detailed proposals from selected developer(s) and contingent on developer(s) meeting requirements (e.g. Housing Trust Fund Program Guidelines, MOA, Objective Design Standards) and
- City Council Approval of Funding Agreement

City & BART MOA: Other Minimum Requirements

For North Berkeley BART:

- Additional Affordable Housing Requirements
- Public and Civic Space
- Station Access and Parking
- Other Requirements



City & BART MOA: AB 2923 + Objective Design Stds. (ODS)

- Due to AB 2923 streamlining, the City and BART agreed to develop ODS
- In order to provide time to develop the ODS, BART will prohibit selected developer(s) from submitting development applications until 9 months after execution of the Exclusive Negotiating Agreement (ENA)
- BART will enforce City-adopted ODS through its real estate agreements provided that ODS does not diminish zoning envelope by more than 10% below what AB 2923 would allow



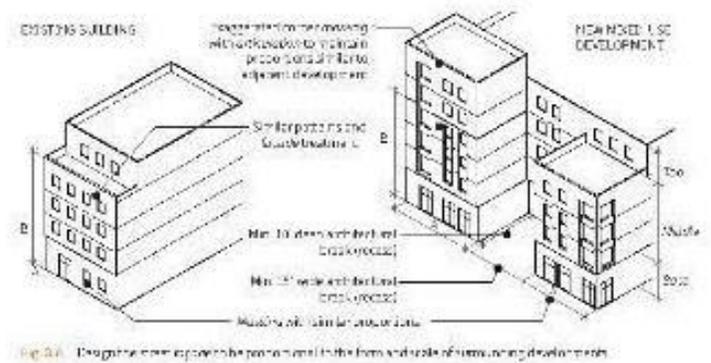
City & BART MOA: AB 2923 + Objective Design Stds. (ODS)

ODS will be:

- Consistent with zoning and sections of the JVP addressing the physical form
- Developed by consultant funded by BART and directed by the City
- Prepared with input from the community, eventual selected developers
- Adopted by the City Council

ODS may address:

- | | |
|-----------------------------|----------------------------|
| ✓ Station Functionality | ✓ Building Facade Design |
| ✓ Public Realm | ✓ Building Placement |
| ✓ Building Form and Massing | ✓ Open Space and Landscape |



Reference: San Jose Citywide Design Standards

City & BART MOA: Developer Selection – N. Berkeley

- Request for Qualifications (RFQ) and City Notice of Funding Availability (NOFA) for preliminary or “predevelopment” City funding
- Selection Committee: equal number of City and BART representatives
- “Short list” of up to four developers will be asked to present at a public townhall and may be asked to submit supplemental materials
- If City and BART do not agree on recommendation, they will meet and confer in good faith to reach agreement
- BART General Manager has sole discretion to recommend developer selection to BART Board
- City Manager has sole discretion to make recommendation to full City Council on City’s predevelopment and development funding award

City & BART MOA: On-Street Parking Strategy

The City will take lead, working with BART to determine a new on-street parking strategy to mitigate impacts of spillover parking from the project by November 2022



City & BART MOA: Ashby Timeline

Activity	Outside Date
Agreement on solicitation process and roles for Ashby	September 30, 2022
Establish milestones for Equitable Black Berkeley process	
Amended MOA for Ashby project approved by Council and BART Board	November 1, 2022
Council action on resolution of air rights (west parking lot)	
Council action on new Flea Market location which may include portion of Adeline Street right-of-way and agreement on roadway reconfiguration for Adeline Street	
Execution of agreement(s) related to air rights	November 30, 2022
Release of Ashby Developer Solicitation	March 30, 2023

POTENTIAL FRAMEWORK FOR CITY SUBSIDY



Purpose

- To address Council and community concerns
- To present a possible framework for the City Subsidy
- To receive feedback and direction from Council on next steps

POTENTIAL FRAMEWORK FOR CITY SUBSIDY



Key Objectives

1. Ensure that developers contribute at least as much as they would in any other project in Berkeley
2. Create incentives for developers to contribute much more
3. Ensure that the City funding is only used to expand the number of units beyond what would be required by the Affordable Housing Mitigation Fee
4. Ensure that projects that use the Density Bonus contribute more than projects that are less dense.

Framework for City Affordable Housing Funding

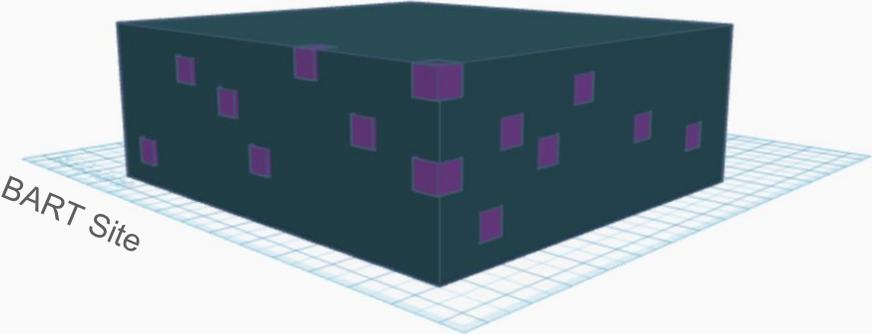
May 2022



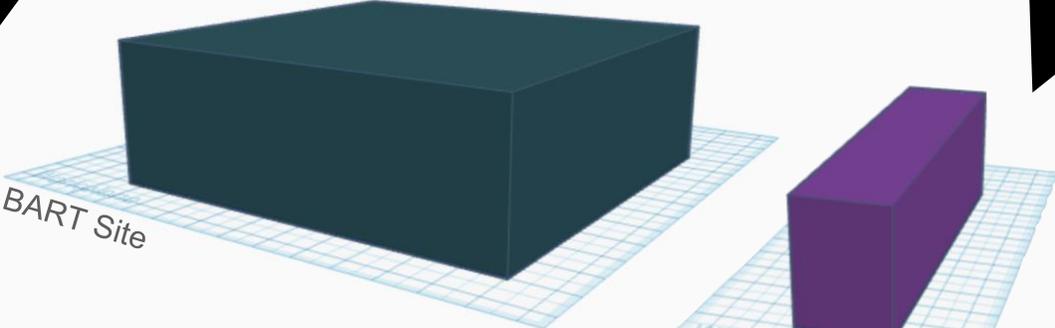
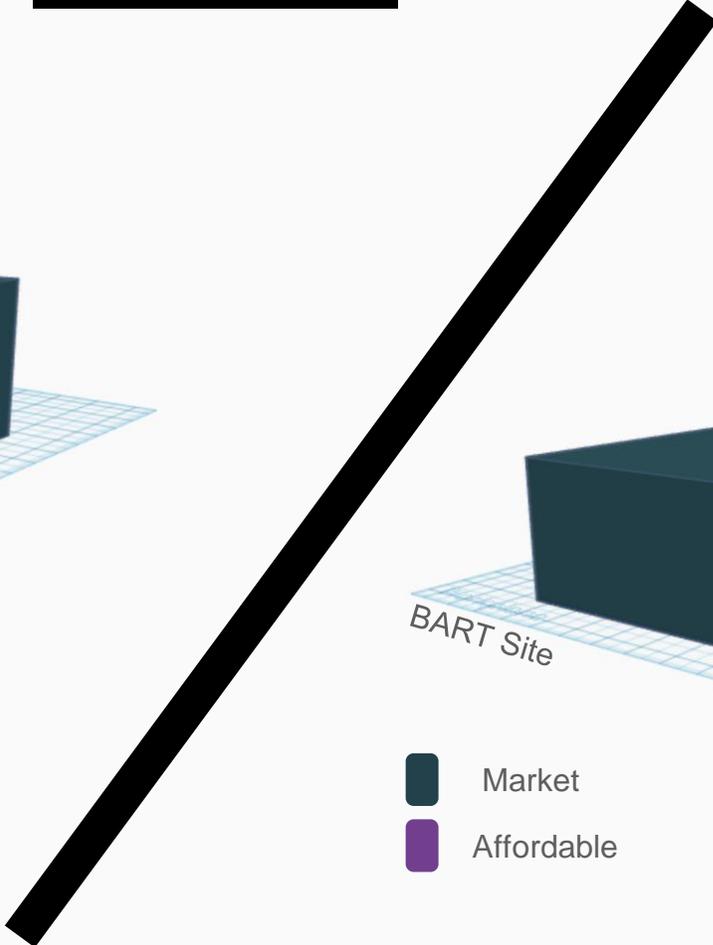
Affordable Housing Mitigation Fee (AHMF)

20% onsite

Or: Fee of \$39,746/unit



- Market
- Affordable (20%)
Half at 50% of AMI, half at 80%

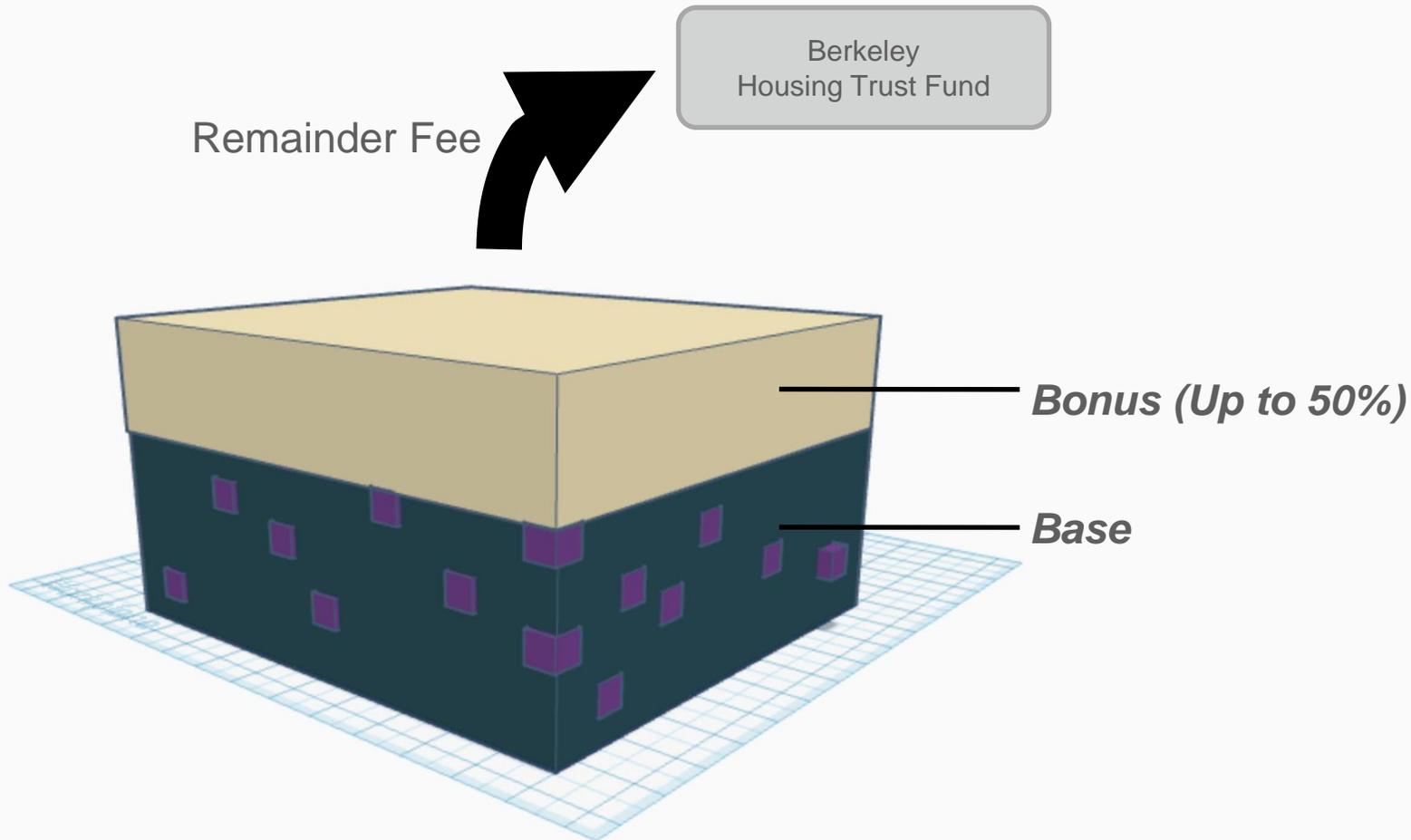


- Market
- Affordable

Berkeley Housing Trust Fund



State Density Bonus

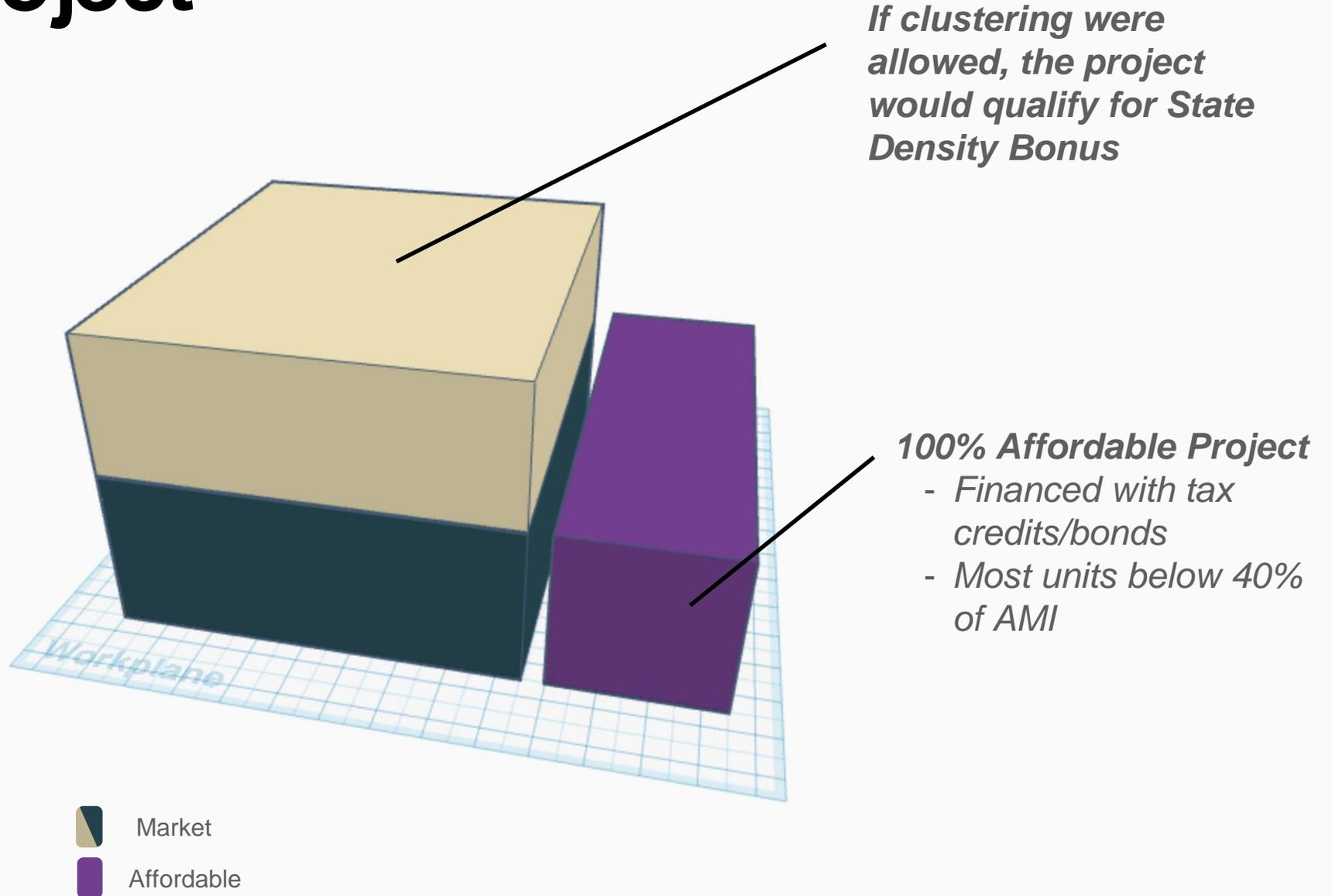


Currently the most popular approach for complying with the AHMF is to build the required VLI units onsite (in order to qualify for the Density Bonus) but pay a remainder fee rather than build the Low Income units.

Clustered Project

The AHMF Ordinance requires that affordable units be 'reasonably distributed' throughout the building.

Some cities allow clustering these units into 100% affordable buildings.



Potential Framework

Potential Requirements For City Subsidy Award

1. Affordable Housing Compliance Plan
2. City Maximum Subsidy
 - \$200,000 per unit (excluding the required 20%)
3. Developer Minimum Contribution
 - \$39,746 per market rate unit

Affordable Housing Compliance Plan

- **Project description**, site plan, unit and bedroom counts for affordable and market rate units
- Plan for complying with City's AHMF including a **request for exception** to allow clustering if necessary.
- **Phasing Plan** showing affordable units constructed first
- Proposed **Developer Contribution** (Cash and in-kind)
- A third-party **economic analysis** that compares proposal to what would be provided under AHMF

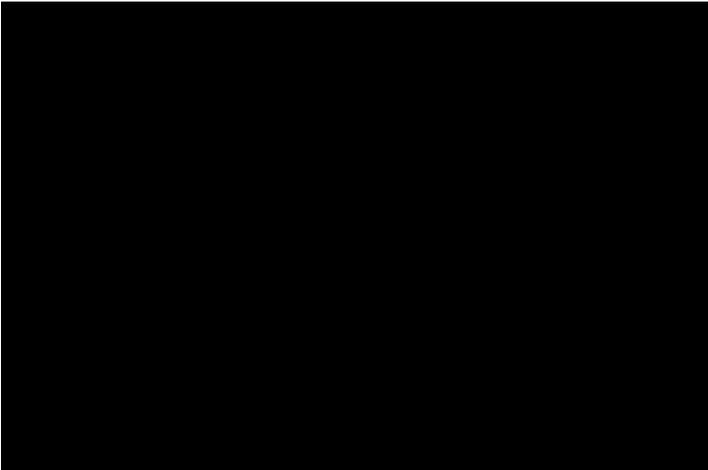


Maximum City Subsidy

- Limit City subsidy to an average of no more than \$200,000 per unit
- Exclude the first 20% of Lower Income units from City Subsidy
- Exclude moderate income units (but encourage them to be provided without City funding)



Developer Minimum Contribution



- **Not a fee** - a standard for ensuring that developers contribute toward the onsite units at a fair level.
- Require \$39,746 per market rate unit
- Include any market rate units built under the density bonus
- Allow cash or in-kind contributions
- Don't allow BART land discount to be counted as a contribution

Jordan Court, 1601 Oxford St.

Thank You

Rick Jacobus
Principal
Street Level Advisors



City Council Actions To Consider

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